

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

BMG RIGHTS MANAGEMENT (US) LLC, and)
ROUND HILL MUSIC LP,)

Plaintiff,

V.

COX ENTERPRISES, INC., COX COMMUNICATIONS, INC., and COXCOM, LLC,

Defendants.

Case No. 1:14-cv-1611 (LOG/JFA)

**DECLARATION OF BRIAN D. BUCKLEY IN SUPPORT OF DEFENDANTS’
MOTION FOR EVIDENTIARY SANCTIONS BASED ON SPOILIATION
OF RIGHTSCORP SOURCE CODE AND OTHER EVIDENCE**

I, Brian D. Buckley, hereby declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am an attorney admitted to practice in the States of Washington and Oregon, and I am also admitted to practice as *pro hac vice* in this case. I am a partner at the law firm of Fenwick & West LLP (“Fenwick”), counsel of record for Defendants Cox Enterprises, Inc., Cox Communications, Inc., and Coxcom, LLC (collectively “Cox”). I submit this declaration in support of Defendants’ Motion for Evidentiary Sanctions Based on Spoliation of Rightscorp Source Code and Other Evidence. I have personal knowledge of the facts in this declaration and am competent to testify with respect to those facts.

2. Attached to this Declaration as **Exhibit 1** is a true and correct copy of an email produced in this action as COX_BMG00156951–953 and marked as Exhibit 6 from the June 11, 2015 deposition of Robert Steele.¹

¹ Exhibit 1 has been redacted to remove a confidentiality designation, as Defendants intend to file this exhibit publicly.

3. Attached to this Declaration as **Exhibit 2** is a true and correct copy of a letter produced in this action as COX_BMG00210366.

4. Attached to this Declaration as **Exhibit 3** is a true and correct copy of a document produced in this action as RGHTS00000708-735.

5. Attached to this Declaration as **Exhibit 4** is a true and correct copy of a document produced in this action as RGHTS00000844-849 and marked as Exhibit 2 from the June 11, 2015 deposition of Robert Steele.

6. Attached to this Declaration as **Exhibit 5** is a true and correct copy of a document produced in this action as RGHTS00001787-792 and marked as Exhibit 4 from the June 11, 2015 deposition of Robert Steele.

7. Attached to this Declaration as **Exhibit 6** is a true and correct copy of BMG Rights Management (US) LLC's Privilege Log, served on May 14, 2015.

8. Attached to this Declaration as **Exhibit 7** is a true and correct copy of Round Hill Music LP's Privilege Log, served on May 14, 2015.

9. Attached to this Declaration as **Exhibit 8** is a true and correct copy of Rightscorp, Inc.'s Privilege Log, served on May 14, 2015.

10. Attached to this Declaration as **Exhibit 9** is a true and correct copy of Rightscorp, Inc.'s Supplemental Privilege Log, served on July 26, 2015.

11. Attached to this Declaration as **Exhibit 10** are true and correct copies of excerpts from the transcript of Robert Steele's June 11, 2015 deposition.

12. Attached to this Declaration as **Exhibit 11** are true and correct copies of excerpts from the transcript of Keith Hauprich's July 31, 2015 deposition.

13. Attached to this Declaration as **Exhibit 12** is a true and correct copy of a letter that Stephanie Roberts sent to me, dated July 24, 2015 concerning "the Order dated July 17, 2015 and

in response to the subpoena served on Ms. Frederiksen-Cross.”

14. Attached to this Declaration as **Exhibit 13** is a true and correct copy of Barbara Frederiksen-Cross’s Privilege Log, served on July 24, 2015.

15. Attached to this Declaration as **Exhibit 14** are true and correct copies of excerpts from the transcript of Barbara Frederiksen-Cross’s August 12, 2015 deposition.

16. Attached to this Declaration as **Exhibit 15** is a true and correct copy of a document produced in this action as BFSUB00000004-029.

17. Attached to this Declaration as **Exhibit 16** is a true and correct copy of a document produced in this action as RGHTS00005373-375.

18. Attached to this Declaration as **Exhibit 17** is a true and correct copy of a document produced in this action as RGHTS00005359- 360.

19. Attached to this Declaration as **Exhibit 18** is a true and correct copy of a document produced in this action as RGHTS00005335-339 and marked as Exhibit 23 from the July 8, 2015 deposition of Christopher Sabec.

20. Attached to this Declaration as **Exhibit 19** is a true and correct copy of a document produced in this action as SMASH00000060-062 and marked as Exhibit 29 from the July 8, 2015 deposition of Christopher Sabec.

21. Attached to this Declaration as **Exhibit 20** is a true and correct copy of a document produced in this action as RGTS00004980-984 and marked as Exhibit 12 from the July 7, 2015 deposition of Christopher Sabec.

22. Attached to this Declaration as **Exhibit 21** is a true and correct copy of a document produced in this action as RGTS00004912-914 and marked as Exhibit 16 from the June 11, 2015 deposition of Mr. Robert Steel and Exhibit 16 from the July 7, 2015 deposition of Christopher Sabec.

23. Attached to this Declaration as **Exhibit 22** is a true and correct copy of a document produced in this action as RGHTS00005140-146 and marked as Exhibit 14 from the July 7, 2015 deposition of Christopher Sabec.

24. Attached to this Declaration as **Exhibit 23** is a true and correct copy of a letter that I sent to Michael Allan, dated May 28, 2015.

25. Attached to this Declaration as **Exhibit 24** is a true and correct copy of a letter that I sent to Michael Allan, dated June 15, 2015.

26. Attached to this Declaration as **Exhibit 25** is a true and correct copy of a letter that Stephanie Roberts sent to me, dated July 9, 2015.

27. Attached to this Declaration as **Exhibit 26** are true and correct copies of excerpts from the transcript of Robert Steele's July 29, 2015 deposition.

28. Attached to this Declaration as **Exhibit 27** are true and correct copies of excerpts from the transcript of Gregory Boswell's July 29, 2015 deposition.

29. Attached to this Declaration as **Exhibit 28** is a true and correct copy of the Supplemental Rebuttal Report of Christopher Rucinski, served July 31, 2015.

30. Attached to this Declaration as **Exhibit 29** are true and correct copies of excerpts from the transcript of Gregory Boswell's July 3, 2015 deposition.

31. Attached to this Declaration as **Exhibit 30** are true and correct copies of excerpts from the transcript of Christopher Sabec's July 7, 2015 deposition.

32. Attached to this Declaration as **Exhibit 31** is a true and correct copy of a document produced in this action as RGHTS00012781-12785 and marked as Exhibit 2 from the July 7, 2015 deposition of Christopher Sabec.

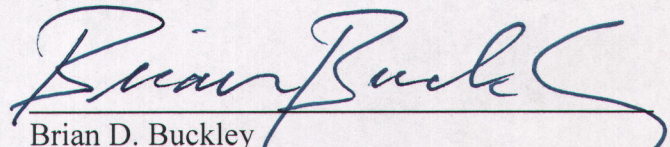
33. Attached to this Declaration as **Exhibit 32** is a true and correct copy of a letter that Stephanie Roberts sent to me, dated July 24, 2015 concerning "the Order dated July 17, 2015 and

the additional meet and confers.”

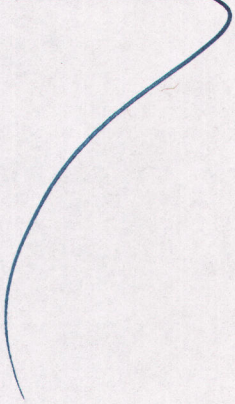
34. Attached to this Declaration as **Exhibit 33** are true and correct copies of excerpts from the transcript of Christopher Sabec’s August 21, 2015 deposition.

35. Attached to this Declaration as **Exhibit 34** is a true and correct copy of a document produced in this action as RGHTS00003009-3031 and marked as Exhibit 33 from the July 8, 2015 deposition of Christopher Sabec.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 28th day of August, 2015 in Seattle, Washington.



Brian D. Buckley
Counsel for Defendants



CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2015, the foregoing was filed and served electronically by the Court's CM/ECF system upon all registered users.

/s/ Craig C. Reilly

Craig C. Reilly (VSB No. 20942)

111 Oronoco Street

Alexandria, VA 22314

Tel: 703-549-5354

Fax: (703) 549-5355

Email: craig.reilly.@ccreillylaw.com

Counsel for Defendants